

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

BRUCE EARL WARD,

PETITIONER

5:03-CV-00201 JMM

LARRY NORRIS, Director of the
Arkansas Department of Correction

RESPONDENT

ORDER

Before the Court is Respondent's Motion to Dissolve Stay of Execution (Docket # 139). Respondent argues that the stay of execution should be lifted as the federal habeas proceedings concluded upon the United States Supreme Court's denial of *certiorari*. Petitioner has filed a Response, arguing that the stay is necessary for federally-provided counsel to continue representing Petitioner. (Docket # 144).

Petitioner's argument that a stay is necessary for continued representation by federally-appointed counsel fails. Federally-appointed counsel "shall represent the defendant throughout every subsequent stage of available judicial proceedings...." 18 U.S.C. § 3599 (e). The Court finds no connection between continued representation by federally-appointed counsel and a stay of execution. A stay of execution in no way determines who may represent a prior habeas petitioner in subsequent proceedings.

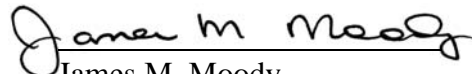
Petitioner also cites two cases pending in this Court in which he is a party: *Jones v. Hobbs*, Case No. 10-2899 (Eighth Circuit Court of Appeals) (lethal injection under Eighth Amendment), and *Sasser v. Arkansas Dept. Of Correction*, No. 5:10-cv-92 SWW (E.D. Ark.) (questioning the ability of the State to limit contact visits between death row inmates and counsel

and experts).¹ Petitioner may move for a stay of execution in either of the pending cases.²

However, the purpose for the current stay of execution was to permit Petitioner to litigate his *habeas* petition. As his *habeas* proceedings have concluded, the purpose for the stay of execution no longer exists.

Upon due consideration, the motion is **GRANTED**. The stay of execution in the case *sub judice* is lifted.

IT IS SO ORDERED this 23rd day of February, 2011.


James M. Moody
United States District Judge

¹Neither of these cases are *habeas* cases nor are they otherwise connected to his closed *habeas* case.

²Petitioner also cites a pending Arkansas state case in which he is a party to show that a stay is warranted. However, the proper court to issue a stay of execution to permit the litigation of a state case would be the state court hearing the case, not a federal court.